

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 107 – HB 96

April 1, 2015

SUMMARY OF ORIGINAL BILL: Authorizes the Commissioner of the Department of Revenue (DOR) to require persons selling other types of tangible personal property, in addition to persons selling beer and tobacco products, to be designated as retailers of such products and to file an information report of such sales with DOR. Authorizes the Commissioner to require each tobacco product manufacturer whose cigarettes are sold in this state to file an information report related to tobacco buydown payments received by retailers from the tobacco product manufacturer, and requires such a report to include the name of the manufacturer, the tobacco buydown payment amount, and purchase date to which the payment corresponds. Imposes a penalty of up to \$1,000 for each report that negligently or knowingly includes inaccurate information, up to a maximum amount of \$10,000.

Authorizes the Commissioner to require that every payment settlement entity, third-party settlement organization, electronic payment facilitator, or other third party acting on behalf of a payment settlement entity that is required to file an annual information return pursuant to Section 6050W of the Internal Revenue Code, to file with DOR a duplicate of such information returns or a duplicate of such information returns related to taxpayers with a Tennessee address. Authorizes the Commissioner to require such duplicate returns to be filed electronically. Imposes the abovementioned penalty on any reporting entity failing to file a duplicate information return required pursuant to this section. Authorizes otherwise confidential tax information to be disclosed to the extent reasonably necessary to facilitate accurate reporting by entities required to file duplicate information pursuant to this act.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – \$4,326,300/Recurring

Increase State Expenditures – \$57,000/One-Time

Increase Local Revenue – \$1,834,400/Recurring

The Governor's proposed budget for FY15-16 recognizes a recurring increase in state revenue to the General Fund in the amount of \$4,300,000, and a one-time increase in state expenditures from the General Fund in the amount of \$57,000.

IMPACT TO COMMERCE OF ORIGINAL BILL:

Increase Business Revenue – \$57,000/One-Time

Increase Business Expenditures – \$6,160,700/Recurring

Jobs Impact – Not Significant

SUMMARY OF AMENDMENT (004697): Clarifies that this bill is authorizing the Commissioner of the Department of Revenue to require wholesalers of beer, tobacco products, or other categories or types of tangible personal property to file an information report of their sales with the Department.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- DOR reports that requiring additional wholesalers and distributors of products other than beer and tobacco to submit electronically reports each month of all sales to retailers will improve compliance and enhance tax collections.
- In FY13-14, Retail Accountability Program (RAP) assessments resulted in an increase of \$11,648,393 in state and local sales tax collections. In addition, DOR reports that an analysis of sales tax returns indicates that the program increased voluntary compliancy, resulting in an additional \$15,893,640 in state and local sales tax collections, for a total of \$27,542,033.
- It is estimated that the additional information from the wholesalers and distributors will increase total state and local tax collections by 10 percent, or \$2,754,203 (\$27,542,033 x 10%), of which \$1,907,030 will be the state portion and \$847,173 will be the local portion.
- Under current law, DOR receives from the IRS the 1099-K data submitted by payment settlement entities approximately 16 months after the end of the tax year. Use of this information by DOR is limited due to strict IRS safeguard requirements.
- Requiring the 1099-K data to be submitted by payment settlement entities directly to DOR will ensure that the information is received in a timely manner and would allow DOR more flexibility in the use of the information.
- As a result, and based on information from New York State which requires such data to be submitted directly to the state's Department of Taxation and Finance, it is estimated that the recurring increase in state sales tax revenue will be \$2,419,242, and the recurring increase in local sales tax revenue would be \$987,227.
- The total recurring increase in state revenue is estimated to be \$4,326,272 (\$1,907,030 + \$2,419,242); the total recurring increase in local revenue is estimated to be \$1,834,400 (\$847,173 + \$987,227).
- DOR reports that the processing of the buydown information would require a new portal to receive the information from the manufacturers, and programming changes to incorporate this information into the calculation of RAP assessments. The one-time increase in state expenditures associated with such required changes is estimated to be approximately \$57,000.

- The first year impacted by this bill as amended is assumed to be FY15-16.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- It is assumed that DOR will contract with a third-party entity to accomplish the required development and programming changes. The resulting one-time increase in business revenue is estimated to be \$57,000.
- Based on the assumptions above, it is estimated that the collection rate of state and local taxes owed by businesses will increase as a result of this bill. Therefore, these businesses will experience a recurring increase in business expenditures compared to what they are currently expending under current law. Such increase in expenditures is estimated to be \$6,160,672 (\$4,326,272 + \$1,834,400), beginning in FY15-16. This amount is not considered new tax liability for the affected businesses; it represents higher collection rates of currently owed state and local taxes.
- Any increase in business expenditures to report information to DOR as required by this bill as amended will be not significant.
- It is further estimated that any impact on private sector jobs will be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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